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April 11, 2014

Mr. Dale Hamilton
P.O. Box 34
Topmost, KY 41862

Re: Knott County Water and Sewer District
Commissioner Dale Hamilton
Request for an Advisory Opinion

PSC STAFF OPINION 2014-004

Dear Mr. Hamilton:

Commission Staff acknowledges receipt of your March 27, 2014 letter in which you request an opinion concerning your appointment to the Knott County Water and Sewer District ("Knott District") Board of Commissioners ("Board"). This opinion represents Commission Staff's interpretation of the law as applied to the facts presented, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.

Based upon your letter, Commission Staff understands the facts as follows:

Knott District was created in 1999. Since that time you have been a commissioner on the Knott District Board. You were most recently reappointed to the Board on April 16, 2012. Your most recent 2012 appointment was for a two year term. The same resolution appointing you reappointed one commissioner to a three year term and reappointed two commissioners to four year terms.

You have requested a legal opinion regarding the lawfulness of your appointment for a two rather than a four year term.

Knott District is a water district organized under KRS Chapter 74. It is a utility subject to the Commission's jurisdiction.¹ The Public Service Commission is responsible for regulating the rates and service of utilities, and a water district is "a public utility and shall be subject to the jurisdiction of the Public Service Commission in the same manner and to the

¹ KRS 278.015.

same extent as any other utility. . . ."² In addition to its jurisdiction to regulate utility rates and service, the Public Service Commission has limited regulatory authority under KRS Chapter 74. The Commission's authority to enforce KRS Chapter 74 is restricted to matters including, for example, establishing water rates and regulations for the disposition and consumption of water, establishing and promoting water district management training programs, appointing water district commissioners to fill vacancies on a water district board that have existed for more than ninety days and removing water district commissioners for cause.³

Your question asks for a legal opinion as to the lawfulness of a resolution passed by the Knott County fiscal court regarding the term of a commissioner's reappointment. The issue of a water district commissioner pertains to the actions of the Knott County judge/executive and fiscal court, over which the Commission does not have any statutory authority to oversee. Requests for opinions pertaining to public questions of law are the domain of the Kentucky Attorney General.⁴ Moreover, the county attorney is charged with advising the county fiscal court and representing the interests of the county and may potentially be of assistance to you in this matter.⁵

Accordingly, the Commission is not able to provide a legal opinion regarding the lawfulness of the fiscal court's April 2012 resolution reappointing you to a two year term to the Knott District Board. Although the Commission cannot render an opinion on this matter, at your discretion you may contact the Knott County attorney, the Kentucky Attorney General's Office, or engage outside legal counsel for further guidance.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and is not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Jonathan Beyer, Staff Attorney, at (502) 782-2581.

Sincerely,



Jeff Derouen
Executive Director

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² KRS 278.015.

³ KRS 74.020(4), (7), (8); KRS 74.080; KRS 74.455.

⁴ KRS 15.020; KRS 15.025.

⁵ KRS 69.210.